

# EXHIBIT 40

IN THE DISTRICT COURT OF WASHINGTON COUNTY

THE STATE OF OKLAHOMA

STATE OF OKLAHOMA,  
Plaintiff,

vs.

Defendant.

Case No. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Last four digits of SS# \_\_\_\_\_  
Last four digits of DL# \_\_\_\_\_ State \_\_\_\_\_  
Year of Birth \_\_\_\_\_ Place of Birth \_\_\_\_\_  
Oklahoma DOC # \_\_\_\_\_  
Home Address: \_\_\_\_\_  
\_\_\_\_\_

PLEA OF GUILTY  
SUMMARY OF FACTS

PART A: FINDINGS OF FACT, ACCEPTANCE OF PLEA

CIRCLE

1. Is the name just read to you your true name? Yes No  
If no, what is your correct name? \_\_\_\_\_  
I have also been known by the name(s): \_\_\_\_\_  
\_\_\_\_\_
2. My lawyer's name is: \_\_\_\_\_
3. (a) Do you wish to have a record made of these proceedings by a Court Reporter? Yes No  
(b) Do you wish to waive this right? Yes No
4. Age: \_\_\_\_\_ Grade completed in school: \_\_\_\_\_
5. Can you read and understand this form? Yes No  
(If the answer above is no, Addendum A is to be completed and attached.)
6. Are you currently taking any medications or substances which affect your ability to understand these proceedings? Yes No
7. Have you been prescribed any medication that you should be taking, but you are NOT taking? If yes, what kind and for what purpose? Yes No  
\_\_\_\_\_  
\_\_\_\_\_

8. Have you ever been treated by a doctor or health professional for mental illness or confined in a hospital for mental illness? Yes No

If yes, list the doctor or health professional, place, and when occurred:

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9. Do you understand the nature and consequences of this proceeding? Yes No

10. Have you received a copy of the Information and read its allegations? Yes No

11. Does the State move to dismiss or amend any case(s) or count(s) in the information or on page 2 of the information? Yes No

If so, set forth the cases/counts dismissed or amended:

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12. A. Do you understand you are charged with:

	Crime	Statutory Reference		
(1)	<hr/>	O.S. <hr/>	Yes	No
(2)	<hr/>	O.S. <hr/>	Yes	No
(3)	<hr/>	O.S. <hr/>	Yes	No
(4)	<hr/>	O.S. <hr/>	Yes	No

(For additional charges, complete Addendum B - PLEA OF GUILTY on page 14.)

B. Are you charged after former conviction of a felony? Yes No

If yes, list the felony(ies) charged: 

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13. Have you previously been convicted of a felony? Yes No

If so, when, where and for what felony/felonies? 

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14. \_\_\_\_\_ (Check if applicable) Do you understand you are subject to the Delayed Sentencing Program for Young Adults and what that sentencing program involves? Yes No

\_\_\_\_\_ (Check if applicable) Do you understand that upon a conviction on a plea of guilty to the offense(s) of \_\_\_\_\_ you will be required to serve a minimum sentence of: Yes No

\_\_\_\_\_ 85% of the sentence of imprisonment imposed before being eligible for parole consideration and are not eligible for earned or other type of credits which will have the effect of reducing the length of sentence to less than 85% of the sentence imposed? Yes No

\_\_\_\_\_ % of the sentence of imprisonment imposed or received prior to becoming eligible for state correctional earned credits toward completion of your sentence or eligibility for parole? Yes No

\_\_\_\_\_ (Check if applicable) Do you understand that a conviction on a plea of guilty to the offense(s) of \_\_\_\_\_ will subject you to mandatory compliance with the Oklahoma Sex Offender Registration Act? Yes No

\_\_\_\_\_ (Check if applicable) Do you understand that any person sentenced to imprisonment for two (2) years or more for the offense(s) of \_\_\_\_\_, involving sexual abuse, sexual exploitation, or illegal sexual conduct, shall be required to serve a term of post-imprisonment supervision for at least three (3) years under conditions determined by the Department of Corrections in addition to the actual term of imprisonment. There will be no post-imprisonment supervision for a sentence of life or life without the possibility of parole for offenses involving sexual abuse, sexual exploitation, or illegal sexual conduct. Yes No

\_\_\_\_\_ (Check if applicable) Do you understand that a conviction on a plea of guilty to the offense(s) of \_\_\_\_\_ will subject you to mandatory compliance with the Oklahoma Methamphetamine Offender Registry Act? Yes No

\_\_\_\_\_ (Check if applicable) Do you understand that a conviction on a plea of guilty to the offense(s) of \_\_\_\_\_ will subject you to mandatory compliance with the Mary Rippe Violent Crime Offender Registration Act. Yes No

\_\_\_\_\_ (Check if applicable) Do you understand that the Court is required to include in the sentence of any person convicted of a felony and sentenced to a term of

imprisonment after November 1, 2012, a term of post-imprisonment supervision.

The post-imprisonment supervision shall be for a period of not less than nine (9) months nor more than one (1) year following confinement there will be no post-imprisonment supervision for a sentence of life without the possibility of parole. Yes No

15. What is/are the charge(s) to which the defendant is/are entering a plea today?

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16. Do you understand the range of punishment for the crime(s) is/are? (List in same order as in No. 15 above. (Continue on Addendum B- PLEA OF GUILTY, page 14, if needed)

- (1) Minimum of \_\_\_\_\_ to a maximum of \_\_\_\_\_ and/or a fine of \$ \_\_\_\_\_ Yes No
- (2) Minimum of \_\_\_\_\_ to a maximum of \_\_\_\_\_ and/or a fine of \$ \_\_\_\_\_ Yes No
- (3) Minimum of \_\_\_\_\_ to a maximum of \_\_\_\_\_ and/or a fine of \$ \_\_\_\_\_ Yes No
- (4) Minimum of \_\_\_\_\_ to a maximum of \_\_\_\_\_ and/or a fine of \$ \_\_\_\_\_ Yes No

17. **READ THE FOLLOWING STATEMENTS:** You have the right to a speedy trial before a jury for the determination of whether you are guilty or not guilty and if you request, to determine sentence. (If pleading to capital murder, advise of procedure in 21 O.S. §701.10(B)). At the trial:

- (1) You have the right to have a lawyer represent you, either one you hire yourself or, if you are indigent, a court appointed attorney.
- (2) You are presumed to be innocent of the charges.
- (3) You may remain silent or, if you choose, you may testify on your own behalf.
- (4) You have the right to see and hear all witnesses called to testify against you and the right to cross-examine them.
- (5) You may have your witnesses ordered to appear in court to testify and present evidence of any defense you have to these charges.
- (6) The state is required to prove your guilt beyond a reasonable doubt.
- (7) The verdict of guilty or not guilty decided by a jury must be unanimous. However, you can waive a jury trial and, if all parties agree, the case could be tried by a Judge alone who would decide if you were guilty or not guilty and if guilty, the appropriate punishment.

DO YOU UNDERSTAND EACH OF THESE RIGHTS?

Yes No

18. Do you understand by entering a plea of guilty you give up these rights? Yes No
19. Do you understand that a conviction on a plea of guilty could increase punishment in any future case committed after this plea? Yes No
20. Have you talked over the charge(s) with your lawyer, advised him/her regarding any defense you may have to the charges and had his/her advice? Yes No
21. Do you believe your lawyer has effectively assisted you in this case and are you satisfied with his/her advice? Yes No
22. Do you wish to change your plea of not guilty to guilty and give up your right to a jury trial and all other previously explained constitutional rights? Yes No
23. Is there a plea agreement? Yes No

If yes, what is your understanding of the plea agreement?

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24. Do you understand the Court is not bound by any agreement or recommendation and if the Court does not accept the plea agreement, you have the right to withdraw your plea of guilty? Yes No
25. Do you understand that if there is no plea agreement the Court can sentence you within the range of punishment stated in question 16? Yes No
26. Do you understand your plea of guilty to the charge(s) is/are after: Yes No

**CHECK ONE:** ( ) no prior felony convictions  
( ) one (1) prior felony conviction  
( ) two (2) or more prior felony convictions

List prior felony convictions to which pleading: \_\_\_\_\_

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27. What (is) (are) your plea(s) to the charge(s) (and to each one of them)?

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28. Did you commit the acts as charged in the Information? State the factual basis for your plea(s): (Continue on Addendum C, page 15, if needed) Yes No

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29. Have you been forced, abused, mistreated, or promised anything by anyone to have you enter your plea(s)? Yes No

30. Do you plead guilty of your own free will and without any coercion or compulsion of any kind? Yes No

31. If you are entering a plea to a felony offense, you have a right to a Pre-Sentence Investigation and Report which would contain the circumstances of the offense, any criminal record, social history and other background information about you. Do you want to have the Report? Yes No

32. (a) Do you have any additional statements to make to the Court? Yes No

(b) Is there any legal reason you should not be sentenced now? Yes No

**HAVING BEEN SWORN**, I, the Defendant whose signature appears below, make the following statements under oath:

- (1) CHECK ONE: \_\_\_\_\_ (a) I have read, understood and completed this form.  
\_\_\_\_\_ (b) My attorney completed this form and we have gone over the form and I understand its contents and agree with the answers.  
See Addendum A.  
\_\_\_\_\_ (c) The Court completed this form for me and inserted my answers to the questions.

(2) The answers are true and correct.

(3) I understand that I may be prosecuted for perjury if I have made false statements to this Court.

\_\_\_\_\_  
DEFENDANT

I acknowledge this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public/Deputy Court Clerk/Judge

33. I, \_\_\_\_\_, the undersigned attorney for the Defendant, believe the Defendant understands the nature, purpose and consequence of this proceeding. The Defendant is able to assist me in formulating any defense to the charge(s). I am satisfied that the Defendant's waivers and plea(s) of guilty are voluntarily given and the Defendant has been informed of all legal and constitutional rights.

\_\_\_\_\_  
ATTORNEY FOR DEFENDANT

34. The sentence recommendation in question 23 is correctly stated. I believe the recommendation is fair to the State of Oklahoma.

35. Offer of Proof (Nolo contendere plea): \_\_\_\_\_  
\_\_\_\_\_

36. On entering a plea to a felony offense, the State has a right to a pre-sentence investigation and report. The State waives the right to a pre-sentence investigation?

Yes No

\_\_\_\_\_  
DISTRICT ATTORNEY

**THE COURT FINDS AS FOLLOWS:**

37. A. The Defendant was sworn and responded to questions under oath.

B. The Defendant understands the nature, purpose and consequences of this proceeding.

C. The Defendant's plea(s) of \_\_\_\_\_ is/are knowingly and voluntarily entered and accepted by the Court.

D. The Defendant is competent for the purpose of this hearing.

E. A factual basis exists for the plea(s) (and former conviction(s), if applicable).

F. The Defendant is guilty as charged: (check as appropriate)

( ) after no prior felony convictions.

( ) after one (1) prior felony conviction.

( ) after two (2) or more prior felony convictions.

G. Sentencing or order deferring sentence shall be:

( ) imposed instante, or

( ) continued until the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ .m.

The Pre-Sentence Investigation and Report, if requested, it shall be provided to the Court by the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.



H. Defendant is committed to:

- ☐ The RID Program
- ☐ The FORT Program
- ☐ The Delayed Sentencing Program for Young Adults

DONE IN OPEN COURT this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
JUDGE OF THE DISTRICT COURT

\_\_\_\_\_  
Court Reporter Present

\_\_\_\_\_  
Name of Judge (typed or printed)

\_\_\_\_\_  
Deputy Court Clerk

**PART B: SENTENCE ON PLEA**

Case No. \_\_\_\_\_

State v. \_\_\_\_\_

Date: \_\_\_\_\_

**THE COURT SENTENCES THE DEFENDANT AS FOLLOWS:**

**TIME TO SERVE**

1. You are sentenced to confinement under the supervision of the Department of Corrections for a term of years as follows: (list in same order as in question No. 15 in Part A)

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Upon release from such confinement, you shall serve a term of post-imprisonment supervision under conditions prescribed by the Department of Corrections for a period of: \_\_\_\_\_.

2. The sentence(s) to run: (check appropriate option)

\_\_\_\_\_ CONCURRENTLY

\_\_\_\_\_ CONSECUTIVELY

\_\_\_\_\_ NOT APPLICABLE

3. Defendant shall receive:

\_\_\_\_\_ Credit for time served

\_\_\_\_\_ No credit for time served

**DEFERRED SENTENCE**

1. The sentencing date is deferred until the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ .m.
2. You \_\_\_\_\_ will \_\_\_\_\_ will not be supervised. The terms set forth in the Rules and Conditions of Probation found in Addendum D shall be the rules you must follow during the period of deferment.

SUSPENDED SENTENCE or SUSPENDED AS TO PART

1. You are sentenced to confinement under the supervision of the Department of Corrections for a term of years as follows:

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To be suspended as follows:

(a) ALL SUSPENDED YES \_\_\_\_\_ NO \_\_\_\_\_

(b) Suspended **except** as to the first \_\_\_\_\_ months/years of the term(s) during which time you are to be held in the custody of the Department of Corrections, the remainder of the sentence(s) to be suspended under the terms set forth in the Rules and Conditions of Probation found in Addendum D.

\_\_\_\_\_ Said period of incarceration shall be in the custody of the Department of Corrections, to be served in the Washington County jail, in lieu of the Department of Corrections, pursuant to the Community Service Sentencing Program, 22 O.S. § 991a – 4.1.

\_\_\_\_\_ Defendant's term of incarceration shall be calculated as:

\_\_\_\_\_ Calendar days with credit for good behavior only (57 O.S § 65)

\_\_\_\_\_ As calculated by the Sheriff with all implemented and allowable credits allowed by law.

2. The sentence(s) to run: (check appropriate option)

\_\_\_\_\_ CONCURRENTLY

\_\_\_\_\_ CONSECUTIVELY

\_\_\_\_\_ NOT APPLICABLE

3. Defendant shall receive:

\_\_\_\_\_ Credit for time served

\_\_\_\_\_ No credit for time served

#### FINES AND COSTS

You are to pay a fine(s), costs, fees and/or assessments to the Washington County District Court Clerk in accordance with an order to be subsequently entered which is incorporated herein and made a part of this Order as though fully set forth herein. All fines, costs and assessments are due and owing from the date of Sentencing, however, if you are unable to immediately pay in full, you may set up a payment plan. **YOU ARE, THEREFORE, ORDERED** to report to the Cost Administrator of the Washington County District Court, 420 S. Johnstone, Room 100, Bartlesville, Oklahoma: (check appropriate option)

\_\_\_\_\_ immediately (if the sentence does not include incarceration)

\_\_\_\_\_ within two business (2) of your release from the county jail

\_\_\_\_\_ on the 181<sup>st</sup> day (or first business day thereafter) after you are released from the Department of Corrections.

to set up a payment plan toward satisfaction of your fines, costs and assessments. Further, pursuant to the provisions of Section VIII of the Rules of the Court of Criminal Appeals, you are entitled to schedule a hearing to have a judge determine your ability to pay fines, fees, costs or assessments. If your sentence includes incarceration in the Department of Corrections, you are not required to pay any outstanding fines, fees, costs or assessments prior to the expiration of 180 days from the time of your release. However, you may make voluntary payments toward the satisfaction of your fines, costs and assessments any time prior to that.

#### COURT CLERK'S DUTY

[TRIAL JUDGE TO COMPLETE THIS SECTION]

IT IS FURTHER ORDERED that the Clerk of this Court shall register or report the following circumstances in accordance with the applicable statutory authority:

( ) As to Count(s) \_\_\_\_\_, the Defendant is ineligible to register to vote pursuant to Section 4-101 of Title 26.

( ) Pursuant to Section 985.1 of Title 22, the Court departed from the mandatory minimum sentence of imprisonment as to Count(s) \_\_\_\_\_.

( ) As to Count(s) \_\_\_\_\_, the Defendant is subject to the Methamphetamine Offender Registry requirements as set forth in Section 2-701 of Title 63.

( ) Defendant is a lawyer and certified copies of this document shall be transmitted to the Chief Justice of the Supreme Court and the General Counsel of the Bar Association within five (5) days as set forth in Rule 7.2 of the Oklahoma Rules of Professional Conduct, 5 O.S.Supp.2014, ch. 1, app. 1-A.

**NOTICE OF RIGHT TO APPEAL**

Sentence to Incarceration, Suspended or Deferred:

To appeal from this conviction, or order deferring sentence, on your plea of guilty, you must file in the District Court Clerk's Office a written Application to Withdraw your Plea of Guilty within ten (10) days from today's date. You must set forth in detail why you are requesting to withdraw your plea. The trial court must hold a hearing and rule upon your Application within thirty (30) days from the date it is filed. If the trial court denies your Application, you have the right to ask the Court of Criminal Appeals to review the District Court's denial by filing a Petition for Writ of Certiorari within ninety (90) days from the date of the denial. Within ten (10) days from the date the application to withdraw plea of guilty is denied, notice of intent to appeal and designation of record must be filed pursuant to Oklahoma Court of Criminal Appeals Rule 4.2(D). If you are indigent, you have the right to be represented on appeal by a court appointed attorney.

Do you understand each of these rights to appeal? Yes No

Do you want to remain in the county jail ten (10) days before being taken to the place of confinement? Yes No

Have you fully understood the questions that have been asked? Yes No

Have your answers been freely and voluntarily given? Yes No

I ACKNOWLEDGE UNDERSTANDING OF RIGHTS AND SENTENCE IMPOSED.

\_\_\_\_\_  
DEFENDANT

I, the undersigned attorney, have advised the Defendant of his appellate rights.

\_\_\_\_\_  
ATTORNEY FOR DEFENDANT

DONE IN OPEN COURT this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
JUDGE OF THE DISTRICT COURT

\_\_\_\_\_  
Court Reporter Present

\_\_\_\_\_  
Name of Judge (typed or printed)

\_\_\_\_\_  
Deputy Court Clerk

**Addendum A**  
**CERTIFICATE OF DEFENSE COUNSEL**

As the attorney for the Defendant, \_\_\_\_\_, I certify that:

1. The Defendant has stated to me that he/she is \_\_\_\_\_ able \_\_\_\_\_ unable to read and understand the attached form, and I have: (check appropriate option)  
\_\_\_\_\_ Determined the Defendant is able to understand the English language.  
\_\_\_\_\_ Determined the Defendant is unable to understand the English language and obtained to interpret.
2. I have read and fully explained to the Defendant the allegations contained in the Information in this case.
3. I have read and fully explained to the Defendant all of the questions in the Plea of Guilty/Summary of Facts and the answers to the questions set out in the Summary of Facts are the Defendant's answers.
4. To the best of my knowledge and belief the statements and declaration made by the Defendant are accurate and true and have been freely and voluntarily made.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
ATTORNEY FOR DEFENDANT

**ADDENDUM B  
PLEA OF GUILTY**

(Charges - continued from #15 on page 2)

	Crime	Statutory Reference		
(5)	_____	O.S. _____	Yes	No
(6)	_____	O.S. _____	Yes	No
(7)	_____	O.S. _____	Yes	No
(8)	_____	O.S. _____	Yes	No
(9)	_____	O.S. _____	Yes	No
(10)	_____	O.S. _____	Yes	No

(Punishments for Crimes - continued from #16 on page 4)

(5)	Minimum of _____ to a maximum of _____ and/or a fine of \$ _____	Yes	No
(6)	Minimum of _____ to a maximum of _____ and/or a fine of \$ _____	Yes	No
(7)	Minimum of _____ to a maximum of _____ and/or a fine of \$ _____	Yes	No
(8)	Minimum of _____ to a maximum of _____ and/or a fine of \$ _____	Yes	No
(9)	Minimum of _____ to a maximum of _____ and/or a fine of \$ _____	Yes	No
(10)	Minimum of _____ to a maximum of _____ and/or a fine of \$ _____	Yes	No

**DEFENDANT TO COMPLETE - if applicable**

I understand that if I am not a United States citizen, my plea or conviction can result in me being subject to deportation, inadmissible to the United States, denied relief from deportation, ineligible for naturalization and could result in me being removed from the United States permanently. Yes No

If I am being sentenced to incarceration, I am a single custodial parent of a minor child(ren)? The following arrangements have been made for the care and custody of the child (ren) during the period of my incarceration? Yes No

I understand that if my plea or conviction involves a crime listed in 70 O.S. § 3-104.1 AND I am employed by a school district, the Clerk is directed to notify the State Board of Education of these proceedings. Yes No

\_\_\_\_\_  
Defendant

**Addendum C**  
**FACTUAL BASIS**

(Continued from # 28 on page 6)

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**Addendum D**  
**RULES AND CONDITIONS OF PROBATION**

As per DEFERRED SENTENCE page 9, #2, see attached Rules and Conditions of Probation setting forth the rules the Defendant must follow during the period of deferment.